

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JOHN W. BILBREY,)	
)	
Plaintiff,)	
)	
vs.)	No. CIV-06-0134-F
)	
MICHAEL J. ASTRUE, ¹)	
COMMISSIONER OF THE SOCIAL)	
SECURITY ADMINISTRATION,)	
)	
Defendant.)	


ORDER

Before the court is plaintiff's Application for Attorney's Fees Under the Equal Access to Justice Act (doc. no. 28). Plaintiff requests that he be awarded attorney's fees in the amount of \$5,977.30 for attorney and paralegal hours. Defendant has responded and has no objection to the attorney's fees requested. Upon due consideration of the unopposed application, the court finds that the same should be granted. The court specifically finds that defendant's position was not substantially justified, that plaintiff is entitled to attorney's fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, that plaintiff's request for attorney's fees in the amount of \$5,977.30 is reasonable, and that the requested attorney's fees should be paid directly to plaintiff's counsel.

¹ Michael J. Astrue became the Commissioner of the Social Security Administration on February 12, 2007, replacing Acting Commissioner Linda S. McMahon who replaced Commissioner Jo Anne B. Barnhart on January 19, 2007. Pursuant to Fed. R. Civ. P. 25(d)(1), Mr. Astrue is substituted for Commissioner Jo Anne Barnhart as defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section of 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

Accordingly, Plaintiff's Application for Attorney's Fees Under the Equal Access to Justice Act (doc. no. 28) is **GRANTED**. Plaintiff is awarded reasonable attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, in the amount of \$5,977.30, to be made payable directly to plaintiff's counsel, Troutman & Troutman, P.C., Tax ID No.73-1487089. If attorney's fees are also awarded under 42 U.S.C. § 406(b), plaintiff's counsel shall refund the smaller award to plaintiff as required by Weakley v. Bowen, 803 F.2d 575, 580 (10th Cir. 1986).

Entered this 24th day of April, 2007.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE